

US EPA ARCHIVE DOCUMENT

## STAGE 4: CONDUCTING THE PROCESS

### A. Five Roles for EPA Staff

EPA staff charged with making and implementing a decision occupy a special place in any stakeholder involvement process. EPA staff generally occupy five distinct roles. First, in the administrative role, EPA sponsors the meeting(s), provides the facilitator, and frequently provides the logistical support for the process.

EPA's second role is to provide information and analysis. For example, EPA staff usually has access to co-workers or consultants who can generate data for use in discussions and perform necessary analyses. It is important to continually provide good scientific data and analyses so the decisions are grounded in good science.

The third role for EPA staff, particularly in agreement processes, is as an interested party. EPA expresses its opinions, needs, and constraints at the beginning of the process and continues to do so throughout the process. This reduces the chance that other participants may build up expectations that EPA cannot meet. You can ask questions and obtain information and clarification as well as provide it.

EPA's fourth role is as a leader and ultimate decisionmaker. Without discouraging the free exchange of ideas, staff should take the lead and participate fully in the ebb and flow of discussions in any type of stakeholder involvement process. In agreement processes, since the Agency will act unilaterally if the negotiations do not yield agreement, EPA occupies a special place as first among equals. After initial discussions with the participants, it is often helpful for staff to take the lead in negotiations by providing a first draft of the factual underpinnings of an issue and transforming it into the outline of a proposed agreement.

EPA's fifth role is to serve as a catalyst. In this capacity, EPA staff initiates stakeholder participation in Agency decisions and/or inspires stakeholders to collaborate on voluntary actions.

Your participation sets the stage and tone for the collaboration you seek from private interests. EPA leadership can be critical in determining, for example, whether someone may take an adversarial stance or work more cooperatively. To be an effective participant,

#### In this chapter:

- A. Five Roles for EPA Staff
- B. How to Work Well with a Facilitator/Mediator
- C. Adapting Your Process to Changing Circumstances
- D. Knowing When the Process is Over

#### Roles for EPA Staff:

- Sponsor
- Resource
- Participant
- Leader
- Catalyst

you may need to encourage participants to explore and explain their ideas and to elaborate on issues they have raised, so the full range of information becomes available. Since many parties are accustomed to reacting in an adversarial manner to EPA proposals, it may take some prompting to get participants to address the matter at hand constructively.

The more policy-laden the discussions are, the more helpful it will be for you to discuss fully and candidly the range of thoughts and concerns on an issue. The other participants should raise issues and stretch for creative, mutually acceptable solutions. Without this leadership, the parties may feel inhibited from developing a group dynamic that stimulates meaningful collaboration. This is one important role for a process facilitator or mediator.

In recommendations and agreement processes, it is a good idea to describe your needs, constraints, and expectations at the outset. When possible, participate in the ebb and flow of the deliberations so that other stakeholders fully understand the Agency's needs.

### **Working Well with a Facilitator or Mediator**

In order to help the facilitator or mediator perform her role, you should:

- Be candid with the facilitator/mediator about EPA's positions, needs, and constraints
- Keep the facilitator/mediator informed about events that may affect the process
- Work jointly on agendas and meeting summaries
- Don't compromise the facilitator's/mediator's neutrality or constrain her/his ability to talk with other parties
- Allow the facilitator/mediator to use professional judgment and expertise

### **B. How to Work Well with a Facilitator/Mediator**

If the design of your stakeholder process involves a facilitator, it is important to establish the facilitator's role at the outset of the process. The facilitator establishes the pace of the meeting(s). S/he also records the progress of the interactions and assures they are meaningful. As previously discussed, in some processes the facilitator also plays a mediating role. To help a facilitator play this role effectively, it is important for participants to keep the facilitator informed about their wants and needs from the process. If parties are unavailable, disingenuous, or unclear with the facilitator, it can set the discussions back and even engender misunderstanding or bitterness among the rest of the participants.

For stakeholder involvement processes to succeed, it is a good idea for all parties, including EPA staff, to follow these guidelines:

- Work jointly on the agenda and meeting summary with the facilitator and other parties
- Don't ask the facilitator to represent your position or do anything else that would compromise the neutrality of the process. The facilitator needs to remain neutral

- Don't constrain the facilitator's ability to talk with the other parties
- Respect that the facilitator may have confidential conversations with parties. Be clear about what information is confidential and what can be shared
- Be candid with the facilitator about your positions, goals, and needs
- Work out a comfortable relationship regarding "chairing" the meeting; allow the facilitator to run the meeting procedurally so EPA or the chairperson can run the meeting substantively
- Keep the facilitator informed about events that may affect the process
- Involve the facilitator in your caucus discussions when appropriate or when you need assistance building internal agreement
- Allow the facilitator/mediator to use her professional judgement and expertise.

It is a good practice to work with the facilitator to monitor how the process is working and prepare to make any adjustments. If at any time during a stakeholder involvement process participants believe that the process or the ground rules are not accomplishing their purpose, they should be able to change or even abandon them. The ground rules often provide for this reassessment option.

### C. Adapting Your Process to Changing Circumstances

**Public involvement is a process, not an event.** Even if you were able to make decisions on all of the considerations discussed in Step 3, in an ongoing process, things may happen that you did not anticipate. Data take longer to obtain or are different than expectations. Stakeholders introduce new assumptions or unanticipated needs. Funding for the process increases or decreases; externally driven schedules lengthen or shorten the time to conduct the process. Be flexible—"semper Gumby"—as one facilitator says.

You should establish points in your process, whether it be an information exchange, recommendations, agreement, or stakeholder action process, to reassess whether the process is meeting the goals you set out at

### **checklist**

#### **Reassessment/Redesign**

- ☐ Are we still making progress?
- ☐ Are we still learning new things?
- ☐ Is the process still appropriate?
- ☐ Do new parties need to be added?
- ☐ Do adequate data continue to be available?
- ☐ Do issues need to be added or subtracted?
- ☐ Is the end product still appropriate?
- ☐ Does a continued commitment to action still exist?
- ☐ Are the resources adequate to complete the process?

the beginning. You should reassess the following components of your stakeholder involvement process:

- Is the chairperson providing positive leadership?
- Are EPA staff well organized and working together or would a change be helpful?
- Is the facilitator effective and maintaining her/his neutrality?
- Are the parties working well together, or is one being disruptive?
- Do other parties need to be added?
- Is communication among stakeholders timely, effective, and efficient?
- Is the available information appropriate and sufficient, or do you need to obtain more information/data?
- Does the process appear to be satisfying the evaluation criteria you identified back in the external situation assessment (Stage 2)?

Do you need to convert a recommendations process into an information exchange process because reaching agreement is not achievable? Can you convert an information exchange process into an agreement process because the stakeholders are converging on a consensus that you can use in decision making? Has an external event resulted in a sudden shortage of time to complete a recommendations process, so you need to convert to an information exchange or even an outreach process? Have some stakeholders left an agreement process because their needs cannot be met? Have EPA and the parties involved in a stakeholder action process concluded that EPA has to take action to address the issues under discussion?

When considering a major change in your stakeholder involvement process, you should consult with the Office of General Counsel (OGC) on how to properly and legally conclude one stakeholder involvement process oriented toward a specific outcome (e.g., recommendations) and begin another seeking a different outcome (e.g., agreement). Changing your desired stakeholder involvement outcome may require changing your charter or statement of purpose. If you were to change your desired outcome from recommendations to agreement, it is important to consult with an OGC attorney regarding compliance with FACA requirements.

#### **Stakeholder Involvement Process Redesign**

If you decide it's necessary or beneficial to revise your stakeholder involvement process, you should:

- Adequately justify the discontinuation of the current process
- Adequately design the replacement process
- Involve the facilitator or chairperson in the redesign
- Involve and inform the stakeholders of changes to the process

In addition to consulting with OGC, it is crucial to involve and inform the stakeholders of any proposed changes to the process—they need to understand your needs and motivations for changing the process and their buy-in is necessary to accomplish the goals of a redesigned process. Sudden changes in process design without adequate discussion may impair your credibility in the process and also in the technical discussions. If, after a reassessment, you need to revise your stakeholder involvement process, you should make sure you have adequately designed the replacement process or adequately justified the discontinuation of the current process. If you are using a facilitator or chairperson, they should be involved in the reassessment and redesign.

If you or the other parties judge a facilitator to be ineffective, biased or otherwise a barrier in the process, you should have procedures to discuss these problems with the facilitator and either agree to changes in performance or replacement of the facilitator.

In the event a replacement is necessary, it is important to work with all participants to define the characteristics of an acceptable facilitator and involve the participants in the choice of the new facilitator. Ethical standards of practice for facilitators appear in Appendix IV.

Once you redesign the process you may need to change the ground rules. If you are in a recommendations or agreement process, these changes should involve the participation of the other members of the group. If this affects a FACA Committee, consult with OCEM to determine whether these changes affect the committee's charter or other FACA requirements.

## **D. Knowing When the Process Is Over**

Setting a schedule with target deadlines is important to keep the group moving forward. In many cases, external factors may determine the pace of the process. Interim deadlines for assessing the progress of the group can help prevent delay and abuse. The participants should be made aware of internal Agency commitments and deadlines, as well as any external deadlines. Refer back to the stated objectives of the process to determine when you have achieved your desired result.

In Stage 3, you designed your stakeholder involvement process. In Stage 4, you implement the process as designed in Stage 3, or as needed, adapt your process to changing circumstances. As you implement your



process as initially designed or revise it in light of new circumstances, you should know in advance how you intend to use the information obtained through or the results of your stakeholder involvement process. When preparing to conduct your process you should consider the questions on the following page. ■

## Questions to Consider in Conducting the Stakeholder Involvement Process

1. What roles will EPA staff play with respect to your stakeholder involvement process?

- ☐ Sponsor?
- ☐ Resource?
- ☐ Participant?
- ☐ Leader?
- ☐ Catalyst?

Who will fill which roles?

2. What should the facilitator know about EPA's position and goals? What issues is EPA willing to discuss? Which issues are off the table?

3. What are the logical points in your process to assess whether the process is meeting the goals you set out at the beginning? What are those goals?

4. Who should participate in the assessment of your process?

5. Are there any target deadlines that are driving the process? If yes, what are they?



